

House Bill 1259 (AS PASSED HOUSE AND SENATE)

By: Representatives Hill of the 21<sup>st</sup>, Burmeister of the 119<sup>th</sup>, Day of the 163<sup>rd</sup>, and Ralston of the 7<sup>th</sup>

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to private detectives and security agencies, so as to revise a definition; to revise the licensing process for private detectives and private security officers; to permit one or more individuals to qualify to hold the license for an individual, firm, association, company, partnership, limited liability company, or corporation; to provide the board with authority to promulgate rules to ensure that individuals are capable of assuming full responsibility for operations of the particular individual, firm, association, company, partnership, limited liability company, or corporation; to revise the provisions for issuing permits for carrying firearms for certain private detectives and private security officers; to revise the provisions for granting of training instructor licenses to certain individuals; to remove the provisions making the chapter inapplicable to persons engaged in the business of furnishing information in connection with credit or marketing or engaged as a consumer reporting agency; to provide that engaging in private detective business or private security business without a license is a felony; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 38 of Title 43 of the Official Code of Georgia Annotated, relating to private detectives and security agencies, is amended by striking paragraph (3) of Code Section 43-38-3, relating to definitions, and inserting in it place a new paragraph (3) to read as follows:

"(3) 'Private detective business' means the business of obtaining or furnishing, or accepting employment to obtain or to furnish, information with reference to:

(A) Crimes or wrongs done or threatened against the United States of America or any state or territory thereof;

(B) The background, identity, habits, conduct, business, employment, occupation, assets, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;

(C) The location, disposition, or recovery of lost or stolen property;

(D) The cause or responsibility for fires, libels, losses, accidents, damage, or injury to persons or property;

(E) The securing of evidence in the course of the private detective business to be used before any court, board, officer, or investigating committee; or

(F) The protection of individuals from serious bodily harm or death.

In addition to the aforementioned services, 'private detective business' shall also mean providing, or accepting employment to provide, protection of persons from death or serious bodily harm."

## SECTION 2.

Said chapter is further amended by striking subsection (a) of Code Section 43-38-6, relating to licenses and qualifications, and inserting in its place a new subsection (a) to read as follows:

"(a) Any individual, firm, association, company, partnership, limited liability company, or corporation desiring to engage in the private detective or private security business in this state shall make a verified application in writing to the division director for a license therefor. If the applicant is a firm, association, company, partnership, limited liability company, or corporation, the person filing the application on behalf of such firm, association, company, partnership, limited liability company, or corporation shall be a corporate officer of such corporation or an officer of such firm, association, partnership, or limited liability company; and such individual shall meet the qualifications set out in this Code section. In lieu of the foregoing requirement, the applicant of a firm, association, company, partnership, limited liability company, or corporation desiring to engage in the private security business may be the chief security officer, or equivalent position, of such entity, and such individual shall meet the qualifications set out in this Code section."

## SECTION 3.

Said chapter is further amended by striking paragraph (7) of subsection (b) of Code Section 43-38-6, relating to licenses and qualifications, and inserting in its place a new paragraph (7) to read as follows:

"(7) The applicant for a private detective company license has had at least two years' experience as an agent registered with a licensed detective agency or has had at least two years' experience as a supervisor or administrator in in-house investigations, or has had at least two years' experience ~~in law enforcement~~ as a peace officer as defined by subparagraph (A) of paragraph (8) of Code Section 35-8-2, or has a four-year degree in criminal justice or a related field from an accredited university or college; and the applicant for a security company license has had at least two years' experience as a supervisor or administrator in in-house security operations or with a licensed security agency, or has had at least two years' experience in law enforcement, or has a four-year degree in criminal justice or a related field from an accredited university or college;"

#### SECTION 4.

Said chapter is further amended by adding a new subsection (j) to Code Section 43-38-6, relating to licenses and qualifications, to read as follows:

"(j) In addition to the initial applicant, any individual, firm, association, company, partnership, limited liability company, or corporation desiring to engage in the private detective or private security business may choose to designate one or more individuals to qualify to hold the license for the individual, firm, association, company, partnership, limited liability company, or corporation. Such individual or individuals shall meet the same qualifications set out in this Code section as relate to the initial applicant, and the board shall have the authority to promulgate rules and regulations necessary to ensure that such additional individual or individuals are capable of assuming full responsibility for the operations of the particular individual, firm, association, company, partnership, limited liability company, or corporation in compliance with this Code section and with all rules and regulations promulgated pursuant to this Code section."

#### SECTION 5.

Said chapter is further amended by striking subsection (a) of Code Section 43-38-10, relating to permits to carry firearms, proficiency requirement, exemption from specified laws, denial, refusal to renew, and suspension of permits, and effect of license suspension and restoration, and inserting in its place a new subsection (a) to read as follows:

"(a) The board may grant a permit to carry a ~~pistol, revolver, or other~~ firearm to any person who is at least 21 years of age and who is licensed or registered in accordance with this chapter and who meets the qualifications and training requirements set forth in this Code section and such other qualifications and training requirements as the board by rule may establish and who is not prohibited by federal or state law from possession of a firearm.

1 The board shall have the authority to establish limits on type and caliber of such weapons  
2 by rule. Application for such permit and for renewal thereof shall be made on forms  
3 provided by the division director. No weapons permit issued under this Code section shall  
4 be transferable to another individual."

#### 5 **SECTION 6.**

6 Said chapter is further amended by adding a new subsection (k) to Code Section 43-38-10,  
7 relating to permits to carry firearms, proficiency requirement, exemption from specified laws,  
8 denial, refusal to renew, and suspension of permits, and effect of license suspension and  
9 restoration, to read as follows:

10 "(k) The board shall have the authority to refuse to grant a weapons permit to an applicant  
11 or to revoke the registration of a person registered by the board if that person would be  
12 ineligible for issuance of a license or permit pursuant to subsection (b) of Code Section  
13 16-11-129 or if such person would be prohibited under federal or state law from possessing  
14 a firearm."

#### 15 **SECTION 7.**

16 Said chapter is further amended by adding a new subsection (e) to Code Section 43-38-10.1,  
17 relating to training instructors and training programs, to read as follows:

18 "(e) The board shall have the authority to refuse to grant a training instructor license to an  
19 applicant or to revoke the registration of an instructor licensed by the board if that person  
20 would be ineligible for issuance of a license or permit pursuant to subsection (b) of Code  
21 Section 16-11-129 or if such person would be prohibited under federal or state law from  
22 possessing a firearm."

#### 23 **SECTION 8.**

24 Said chapter is further amended by striking subsection (a) of Code Section 43-38-14, relating  
25 to exceptions to operation of chapter and to local regulation, and inserting in its place a new  
26 subsection (a) to read as follows:

27 "(a) This chapter shall not apply to:

28 (1) An officer or employee of the United States of America or of this state or a political  
29 subdivision thereof while the employee or officer is engaged in the performance of  
30 official duties;

31 (2) A person ~~engaged in the business of furnishing information in connection with credit~~  
32 ~~or marketing and a~~ or firm engaged as a consumer reporting agency, as defined and  
33 regulated by the federal Fair Credit Reporting Act;

- 1 (3) An attorney at law or a bona fide legal assistant in performing his or her duties;
- 2 (4) Admitted insurers, agents, and insurance brokers licensed by the state while
- 3 performing duties in connection with insurance transacted by them;
- 4 (5) A peace officer employed on a full-time basis by a federal, state, county, or local law
- 5 enforcement agency who contracts directly with an employer to work during his or her
- 6 off-duty hours and whose off-duty employment is conducted on an independent
- 7 contractor basis with another employer other than a peace officer engaged in the private
- 8 detective or private security business or a private detective or private security agency,
- 9 subject to Code Section 16-10-3, relating to the receipt of funds by state officers or
- 10 employees for the enforcement of penal laws;
- 11 (6) A firm engaged in the business of independent insurance claims adjusting whose
- 12 employees hold a valid Georgia adjuster's license; or
- 13 (7) The employees of a firm mentioned in paragraph (6) of this subsection."

14 **SECTION 9.**

15 Said chapter is further amended by striking Code Section 43-38-16, relating to penalties, in

16 its entirety and inserting in its place a new Code Section 43-38-16 to read as follows:

17 "43-38-16.

18 Any person who engages in the private detective business or private security business or

19 offers, pretends, or holds himself or herself out as eligible to engage in the private detective

20 business or private security business and who is not legally licensed or registered under this

21 chapter shall be guilty of a ~~misdemeanor~~ felony and, upon conviction thereof, shall be

22 punished by a fine of not less than \$500.00 nor more than \$1,000.00 or by imprisonment

23 for not less than two nor more than five years, or both. Each day or fraction of a day that

24 he or she practices in violation of this chapter shall constitute a separate offense."

25 **SECTION 10.**

26 This Act shall become effective July 1, 2006, and shall not apply to any offense committed

27 before that date. Any such offense committed before that date shall be governed by the

28 statute in effect at the time the offense was committed.

29 **SECTION 11.**

30 All laws and parts of laws in conflict with this Act are repealed.